

OCT 24 2006

Serial No.: 10/053,456

Art Unit: 2625

REMARKS

This is a full and timely response to the outstanding final Office Action mailed July 27 2006. Through this response, claims 1, 7, 13, 16, 22, and 24 have been amended, claims 14, 23, and 25 have been canceled without prejudice, waiver, or disclaimer, and claims 26 and 27 have been added. Reconsideration and allowance of the application and pending claims 1-13, 15-22, 24, and 26-27 are respectfully requested.

I. Claim Rejections - 35 U.S.C. § 103(a)**A. Rejection of Claims**

Claims 1, 2, 4-8, 10-17, and 19-25 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Ikeda, et al.* ("*Ikeda*," U.S. Pat. No. 6,297,874) in view of *Parulski, et al.* ("*Parulski*," U.S. Pat. No. 6,650,366). Claims 3, 9, and 18 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable under *McKenna, et al.* ("*McKenna*," U.S. Pat. No. 6,800,341). Applicant respectfully submits that the amendments to independent claims 1, 7, and 16, and cancellation of claim 25, has rendered these rejections moot. Additionally, Applicant respectfully submits that the claims as amended are patentable over the art of record.

B. Discussion of the Rejection

The U.S. Patent and Trademark Office ("USPTO") has the burden under section 103 to establish a *prima facie* case of obviousness according to the factual inquiries expressed in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). The four factual inquiries, also expressed in MPEP 2100-116, are as follows:

(A) Determining the scope and contents of the prior art;

Serial No.: 10/053,456
Art Unit: 2825

- (B) Ascertaining the differences between the prior art and the claims in issue;
- (C) Resolving the level of ordinary skill in the pertinent art; and
- (D) Evaluating evidence of secondary considerations.

Applicant respectfully submits that a *prima facie* case of obviousness is not established using the art of record.

Independent Claim 1

Claim 1 recites (with emphasis added):

An apparatus for capturing digital images, comprising:
an image sensor including a plurality of image capture elements,
each of the image capture elements configured to capture image data;
an input element for communicating a print size to the apparatus;
and
means for matching image capture elements corresponding to fewer than all of the plurality of image capture elements with an aspect ratio corresponding to the print size.

Applicant respectfully submits that *Ikeda*, in view of *Parulski*, fails to disclose, teach, or suggest at least the above-emphasized claim features. Additionally, Applicant respectfully submits that *McKenna*, used in the prior rejection to support an alleged obviousness for similar claim features now incorporated into claim 1, fails to remedy the deficiencies of *Ikeda* and *Parulski*. In particular, *McKenna* discloses the following in column 13, lines 5 through 15:

Each of the image capturing means 55 comprises a charge coupled device ("CCD") element 70 and an associated lens means 75. Each CCD element 70 is arranged so that its light-receiving surface faces substantially radially outwardly through one of the shaft's openings 60. The associated lens means 75 for that CCD element is located in, or in association with, the same opening 60 so as to establish the effective field of view for that CCD element. In this way, each CCD element 70 will receive a visual image of any objects and/or structures located within the field of view 65 established for that CCD element by its associated lens means 75.

Serial No.: 10/053,456
Art Unit: 2625

Claim 1 requires "an image sensor including a plurality of image capture elements."

Assuming *arguendo* that the Office Action is equating the CCD element 70 of *McKenna* with an image sensor, Applicant respectfully submits that there is no discussion in *McKenna* with regard to "matching image capture elements corresponding to fewer than all of the plurality of image capture elements." Accordingly, Applicant respectfully submits that claim 1 is allowable over the art of record.

Because independent claim 1 is allowable over the art of record, dependent claims 2 through 6 are allowable as a matter of law for at least the reason that the dependent claims 2 through 6 contain all elements of their respective base claim. See, e.g., *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

Independent Claim 7

Claim 7 recites (with emphasis added):

A method for adapting a print size to a captured image in a digital image capture device, the method comprising the steps of:
providing an image sensor including a plurality of image capture elements;
matching fewer than all of the plurality of image capture elements of the image sensor with an aspect ratio corresponding to a selected print size; and
presenting image sensor data corresponding to the selected print size to a user of the image capture device.

For similar reasons as described in association with claim 1 above, Applicant respectfully submits that *Ikeda*, in view of *Parulski*, fails to disclose, teach, or suggest at least the above-emphasized features. Further, Applicant respectfully submits that *McKenna* fails to remedy the deficiencies of *Ikeda* and *Parulski*. Accordingly, Applicant respectfully submits that independent claim 7 is allowable over the art of record.

Because independent claim is allowable over the art of record, dependent claims 8-13, 15, and 26 are allowable as a matter of law.

Serial No.: 10/053,456
Art Unit: 2625

Independent Claim 16

Claim 16 recites (with emphasis added):

A computer readable medium having a program for adapting a print size to a captured image in a digital image capture device, the program including logic for performing the steps of:

matching fewer than all of a plurality of image capture elements of an image sensor with an aspect ratio corresponding to a selected print size; and

presenting image sensor data corresponding to the selected print size to a user of the image capture device.

For similar reasons as described in association with claim 1 above, Applicant respectfully submits that *Ikeda*, in view of *Parulski*, fails to disclose, teach, or suggest at least the above-emphasized features. Further, Applicant respectfully submits that *McKenna* fails to remedy the deficiencies of *Ikeda* and *Parulski*. Accordingly, Applicant respectfully submits that independent claim 16 is allowable over the art of record.

Because independent claim 16 is allowable over the art of record, dependent claims 17-22, 24, and 27 are allowable as a matter of law.

In summary, it is Applicant's position that a *prima facie* for obviousness has not been made against Applicant's claims. Therefore, it is respectfully submitted that each of these claims is patentable over the art of record and that the rejection of these claims should be withdrawn.

II. Canceled Claims

As identified above, claims 14, 23, and 25 have been canceled from the application through this Response without prejudice, waiver, or disclaimer. Applicant reserves the right to present these canceled claims, or variants thereof, in continuing applications to be filed subsequently.

Serial No.: 10/053,456
Art Unit: 2625

III. New Claims

As identified above, claims 26 and 27 have been added into the application through this Response. Applicant respectfully submits that these new claims describe embodiments that are novel and unobvious in view of the art of record. In particular, Applicant respectfully submits that, at least for the reasons that corresponding base independent claims 7 and 16 are allowable, dependent claims 26 and 27, respectively, are allowable as a matter of law. Therefore, Applicant respectfully requests that these claims be held to be allowable.

OCT 24 2006

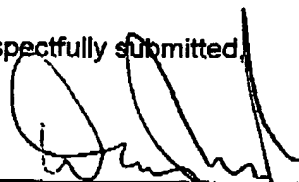
Serial No.: 10/053,456

Art Unit: 2625

CONCLUSION

Applicant respectfully submits that Applicant's pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,



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